

**STATE OF INDIANA – COUNTY OF MIAMI
IN THE MIAMI CIRCUIT AND SUPERIOR COURTS**

**Notice of Proposed Local Rule Amendments and Finding Good Cause to
Deviate From Established Schedule
May 15, 2014**

The judges of the Miami Circuit and Superior Courts, pursuant to Trial Rule 81(B), give notice of amendments to the Local Rules pertaining to Courts' caseload allocation plan (LR52-AR00-1 and LR52-AR00-2), court reporter services (LR52-AR-15-1), the bond schedule (LR52-CR00-1), and assignment of criminal cases (LR52-CR2.2-1) and find good cause to deviate from the schedule for amending said Local Rules under Trial Rule 81(D). All new text is shown by underlining, and deleted text is shown by ~~striketrough~~.

Notice has been given to the public by posting in the Office of the Miami County Clerk and on the Clerk's website and on the Indiana Judicial Website, and by furnishing a copy to the officers of the Miami County Bar Association. Comments may be made until June 24, 2014, to:

Hon. Timothy P. Spahr, Judge of the Miami Circuit Court, Attn.: Public
Comment on Local Rules, Miami County Courthouse, 25 North Broadway, Peru,
IN 46970; or tspahr@miamicountyin.gov.

These rule amendments will be effective on July 1, 2014.

Dated this 15th day of May, 2014.

_____/S/_____
TIMOTHY P. SPAHR, JUDGE
MIAMI CIRCUIT COURT

_____/S/_____
J. DAVID GRUND, JUDGE
MIAMI SUPERIOR COURT I

_____/S/_____
DANIEL C. BANINA, JUDGE
MIAMI SUPERIOR COURT II

LR52-AR00-1
CASELOAD ALLOCATION PLAN

The Miami Circuit Court, Miami Superior Court I, and Miami Superior Court II ~~and Superior Courts~~ have previously adopted various rules and orders concerning the filing of certain types of matters in the County Courts. ~~However, beginning January 1, 2009, a new Superior Court (Superior Court II) will be allocated new cases and the Circuit and Superior Court I caseloads will be adjusted.~~ Based upon the ~~2007~~ 2013 weighted caseload numbers, the judges of all three Courts have agreed upon the following caseload allocations:

(A) Criminal Cases

- (1) All Murder, Class A and Class B felony, and Level 1, Level 2, Level 3, and Level 4 felony cases (except as noted in subparagraph (A)(3), below) ~~should~~ shall be filed in the Miami Circuit Court.
- (2) All Class C and D felony and Level 5 and Level 6 felony cases (except as noted in subparagraph (A)(3), below) shall be filed in the Miami Superior Court II.
- (3) All traffic-related cases, both felony and misdemeanor, and all felony cases filed against a defendant as a result of one or more criminal acts allegedly committed by the defendant while he or she was a prisoner at the Miami Correctional Facility shall be filed in the Miami Superior Court I.
- (4) All non-traffic-related misdemeanor cases ~~misdemeanors~~ shall be filed in the Miami Superior Court II.

(B) Infractions and Ordinance Violations ~~Ordinances~~

All Infraction and Ordinance Violation cases ~~violations~~ shall be filed in the Miami Superior Court I.

(C) Juvenile Matters

- (1) All Juvenile Delinquency, Juvenile Status, and Termination of Parental Rights cases shall be filed in the Miami Superior Court II.
- (2) All Juvenile CHINS cases shall be filed in the Miami Circuit Court.

(D) Small Claims Cases

All Small Claims shall be filed in the Miami Superior Court I.

(E) Civil Prison Litigation

All civil cases filed by prisoners at the Miami Correctional Facility or the Miami County Jail ~~prison litigation other than , not including~~ Small Claims cases; ~~Domestic Relations and~~ or Post-Conviction Relief proceedings ~~Petitions~~ shall be filed in the Miami Circuit Court. Post-Conviction Relief proceedings filed by a prisoner at the Miami Correctional Facility or the Miami County Jail shall be filed pursuant to the provisions of Rule PC 1, Section 2, of the Indiana Rules of Procedure for Post-Conviction Remedies.

(F) **All Other Cases Filings**

All other cases filings, not otherwise mentioned above, ~~may~~ can be filed ~~made~~ in any of the three (3) above-named Courts. ~~Miami County Trial Courts~~. ~~The Courts encourage~~ All all litigants and their attorneys are encouraged to equalize their filing of all other cases filings between the three Courts.

Proposed Effective Date: July 1, 2014.

**LR52-AR00-2
REVIEW OF CASELOAD DISTRIBUTION**

The judges of the courts of record of Miami County shall meet en banc ~~en-banc~~ in the second half of April ~~February~~ of each even-numbered year for the purpose of reviewing the weighted caseload of each court, and at such other times as may be required to comply with new orders of the Indiana Supreme Court and to comply with the District Plan or any amendments to the District Plan.

Proposed Effective Date: July 1, 2014.

**LR52-AR15-1
COURT REPORTER SERVICES**

Section One. Definitions. The following definitions shall apply under this local rule:

- *Court Reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court, including preparing a transcript of the record.
- *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment ~~Equipment~~ shall include, but not be limited to, telephones, computer hardware, software programs, disks, tapes, and any other device used for recording, ~~and~~ storing, and transcribing electronic data.
- *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom ~~court-room~~ and any designated office space.
- *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- *Recording* means the electronic, mechanical, stenographic, or other recording made as required by Indiana Rule of Trial Procedure 74.

- *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court within the county but remain the same for each work week.
- *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.
- *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year; i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- *Court* means the particular court for which the court reporter performs services. Court ~~Court~~ may also mean all of the courts in Miami County.
- *County indigent transcript* means a transcript that is paid for from county funds and is for the benefit of a litigant who has been declared indigent by a court.
- *State indigent transcript* means a transcript that is paid for from state funds and is for the benefit of a litigant who has been declared indigent by a court.
- *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Compensation, Equipment and Transcript Fees.

1. Court Reporters shall be paid an annual salary for the time spent working under the control, direction, and direct supervision of their supervising court during any regular fixed work hours, gap hours, or overtime hours.
2. Each court reporter shall report to the Indiana Supreme Court Division of State Court Administration, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent, or private transcripts ~~to the Indiana Supreme Court Division of State Court Administration~~. The reporting shall be made on forms prescribed by the Division of State Court Administration.
3. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript; ~~and~~ the court reporter desires to utilize the court's equipment, work space, and supplies; and the court agrees to the use of the court equipment for such purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:

- ~~a.(a)~~ The reasonable market rate of the use of equipment, work space, and supplies.
- ~~b.(b)~~ The method by which records are to be kept of the use of equipment, work space, and supplies; and
- ~~c.(c)~~ The method by which the court reporter is to reimburse the court for the use of the equipment, work space, and supplies.
4. If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.
5. The maximum per page fee a court reporter may charge for private practice work shall be Four Dollars and Fifty Cents (\$4.50)~~\$4.00~~.
6. The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Four Dollars and Fifty Cents (\$4.50)~~\$4.00~~.
7. The maximum per page fee a court reporter may charge for the preparation of a transcript for a county or state indigent ~~indigent~~ transcript shall be Three Dollars and Fifty Cents (\$3.50)~~\$3.00~~.
8. Any transcript that is required to be expedited (due within 14 days of written request) will result in an additional fee of One Dollar and Fifty Cents (\$1.50)~~\$1.00~~ per page.
9. A court reporter may charge a minimum fee of Thirty-Five Dollars (\$35.00) per transcript.
- ~~10.9.~~ The court reporter shall submit directly to the county a claim for the preparation of the county ~~or state~~ indigent transcript.
- ~~11.10.~~ An additional labor charge approximating the hourly rate based upon the court reporter's annual court compensation may be charged for the time spent binding the transcript and the exhibit binders.
- ~~12.11.~~ A reasonable charge for the office supplies required and utilities for the binding and electronic transmission of the transcript, pursuant to Indiana Rules of Appellate Procedure 28 and 29, is permissible; the costs for these supplies should be determined pursuant to a Schedule of Transcript Supplies which should be established and published annually by the judge or judges of the county.
- ~~13.12.~~ The courts will enter into a written agreement with the court reporter which outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. either monetary compensation or compensatory time off.

Proposed Effective Date: July 1, 2014.

LR52-CR00-1

BOND SCHEDULE

**NON-ALCOHOL-RELATED
TRAFFIC MISDEMEANORS:**

\$ 1,000 corporate security bond or \$100 cash bond
~~10% cash~~

ALL OTHER MISDEMEANORS:

\$ 3,000 corporate security bond or \$300 cash bond
~~10% cash~~

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**FOR FELONY OFFENSES (OTHER THAN MURDER) ALLEGEDLY COMMITTED
ON OR BEFORE JUNE 30, 2014:**

CLASS D FELONIES:

\$ 5,000 corporate security bond or \$500 cash bond
~~10% cash~~

CLASS C FELONIES:

\$12,000 corporate security bond only

CLASS B FELONIES:

\$25,000 corporate security bond only

CLASS A FELONIES:

\$50,000 corporate security bond only

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**FOR FELONY OFFENSES (OTHER THAN MURDER) ALLEGEDLY COMMITTED
ON OR AFTER JULY 1, 2014:**

LEVEL 6 FELONIES:

\$ 5,000 corporate security bond or \$500 cash bond

LEVEL 5 FELONIES:

\$10,000 corporate security bond only

LEVEL 4 FELONIES:

\$20,000 corporate security bond only

LEVEL 3 FELONIES:

\$30,000 corporate security bond only

LEVEL 2 FELONIES:

\$40,000 corporate security bond only

LEVEL 1 FELONIES:

\$50,000 corporate security bond only

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MURDER:

INITIALLY, NO BAIL WILL BE SET.

When deemed appropriate, the judge may set bond in amounts and under terms different than are stated on this bond schedule.

ADDITIONAL BONDING TERMS:

1. A defendant charged with a “violent crime” (as described in I.C. 5-2-6.1-8) ~~battery or domestic violence~~ shall have no contact, directly or indirectly, with the alleged victim(s).
2. A defendant charged with a “crime of domestic violence” (as described in I.C. 35-31.5-2-78), which includes domestic battery, regardless of the class, shall remain in jail for eight (8) 48 hours following arrest before being eligible for release on bail.
3. A defendant who is charged with child molesting (I.C. 35-42-4-3) or child solicitation (I.C. 35-42-4-6) or who is a sexually violent predator under I.C. 35-38-1-7.5 and is arrested for or charged with the commission of an offense that would classify the person as a sex or violent offender (as defined in I.C. 11-8-8-5) may not be admitted to bail until the Court has conducted a bail hearing in open court. That hearing shall be held within forty-eight (48) hours of the defendant being arrested, unless exigent circumstances prevent holding the hearing within forty-eight (48) hours. It shall be the responsibility of the Miami County Sheriff to promptly notify the Court of the arrest of such a defendant in order that such a hearing may be held in a timely fashion.
- ~~4.3.~~ \$10,000 shall be added to a defendant’s bond if charged with using a deadly weapon.
- ~~5.4.~~ \$10,000 shall be added to a defendant’s bond if charged with manufacturing any controlled substance.
- ~~6.5.~~ For a defendant charged as a habitual violator (excluding a habitual traffic violator), there shall be an additional bond equal to the bond for the highest class felony charged against the defendant.
- ~~7.6.~~ For a defendant charged as a habitual substance offender ~~abuser~~, there shall be a \$5,000 corporate security bond required in addition to any bond set under this schedule.
- ~~8.7.~~ Upon arrest, any defendant already on terms of probation or parole is subject, pursuant to statute, to a detention hold for fifteen days before being released on bail. In order to provide the county prosecutor with sufficient opportunity to request a probation hold, the Miami County Sheriff ~~sheriff~~ shall hold the defendant in custody until the defendant’s first court appearance.

- ~~9.8.~~ Except as augmented under these additional bonding terms, a defendant's bail shall be determined by adding the bonds for each criminal charge then pending against the defendant.
10. With regard to a defendant who is a foreign national and who is unlawfully present in the United States under federal immigration law, such a defendant may be released from custody only by posting a bond in accordance with the provisions of I.C. 35-33-8-4.5.

Proposed Effective Date: July 1, 2014.

LR52-CR2.2-1 ASSIGNMENT OF CRIMINAL CASES

Pursuant to Rule 2.2 of the Indiana Rules of Criminal Procedure, the Judges of the Miami Circuit Court and Superior Courts hereby establish the following local rules for the assignment of criminal cases: ~~_, subject to approval of the Indiana Supreme Court.~~

1. All traffic-related felony, misdemeanor, and infraction cases shall be filed in the Miami Superior Court I. In the event that non-traffic-related felony or misdemeanor charges are filed against a defendant who is also charged with a traffic-related felony or misdemeanor arising from the same set of facts, the non-traffic-related charges shall also be filed in the Miami Superior Court I.
2. All felony cases filed against a defendant as a result of one or more criminal acts allegedly committed by the defendant while he or she was a prisoner at the Miami Correctional Facility shall be filed in the Miami Superior Court I.
- ~~3.2.~~ All non-traffic-related misdemeanor cases shall be filed in the Miami Superior Court II.
- ~~3.~~ ~~All traffic-related felony cases shall be filed in the Miami Superior Court. If non-traffic misdemeanor counts are also filed against the same defendant arising from the same set of facts, they shall also be filed in the Miami Superior Court I.~~
4. All Class C and D felony ~~eases~~ and Level 5 and Level 6 felony cases that are not traffic-related shall be filed in the Miami Superior Court II.
5. All Murder cases and all Class A and B felony and Level 1, Level 2, Level 3, and Level 4 other felony cases that are not traffic-related ~~with the exception of those set forth in Rule 3 above will~~ shall be filed in the Miami Circuit Court.

~~6.5.~~ In the event that a change of judge is granted because of a conflict of interest or pursuant to ~~Criminal~~ Rule 12 of the Indiana Rules of Criminal Procedure, the ~~cause case~~ shall first be assigned to a judge of one of the other two Miami County Courts who does not have a conflict of interest. In the event that ~~no~~ none of the judges of the Courts of Miami County judge can preside over ~~hear~~ a case that was originally filed in the Miami Circuit Court, Miami Circuit Court cases that case shall be first assigned to the Honorable Brant Parry. Honorable Robert McCallen. If Judge ~~McCallen~~ Parry is unable to accept the case, the case shall ~~will~~ be assigned to the Honorable Thomas Perrone instead. In the event that none of the judges of the Courts of Miami County can preside over a case that was originally filed in the Miami Superior Court I or the Miami Superior Court II, that case ~~Miami Superior Courts' cases~~ shall be first assigned to the Honorable Thomas Perrone. If Judge Perrone is unable to accept the case, the case shall ~~will~~ be assigned to the Honorable Brant Parry instead. Honorable _____
~~Robert McCallen.~~

Proposed Effective Date: July 1, 2014.